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Investigation
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October 6, 2020

MEMORANDUM TO: Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

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SUBJECT: Decision Memorandum for the Preliminary Affirmative
Determination, in the Less-Than-Fair-Value Investigation of
Common Alloy Aluminum Sheet from South Africa

I. SUMMARY

The Department of Commerce (Commerce) preliminarily determines that common alloy aluminum sheet (aluminum sheet) from South Africa is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of the accompanying *Federal Register* notice.

II. BACKGROUND

On March 8, 2020, Commerce received an antidumping duty (AD) petition concerning imports of aluminum sheet from South Africa, filed in proper form by the Aluminum Association Common Alloy Aluminum Sheet Trade Enforcement Working Group and its individual members: Aleris Rolled Products, Inc.; Arconic, Inc.; Constellium Rolled Products Ravenswood, LLC; JW Aluminum Company; Novelis Corporation; and Texarkana Aluminum, Inc. (collectively, the petitioners), domestic producers of aluminum sheet.¹ On March 30, 2020, Commerce initiated the AD investigation on aluminum sheet from South Africa.²

¹ See Petitioners’ Letter, “Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey – Petition for the Imposition of Antidumping and Countervailing Duties,” dated March 9, 2020 (Petition).

² See *Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and the Republic of Turkey: Initiation of Less-Than-FairValue Investigations*, 85 FR 19444 (April 7, 2020) (Initiation Notice).



In the *Initiation Notice*, Commerce notified the public that, in the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, it intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the "Scope of the Investigations," in the appendix.³ However, because the Petition identified only one producer and/or exporter of the subject merchandise in South Africa, Hulamin Operations (Pty) Ltd. (Hulamin Operations), we have examined just that company.⁴ We issued a questionnaire to Hulamin Operations on April 14, 2020.⁵

On April 24, 2020, the U.S. International Trade Commission preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of aluminum sheet from South Africa, *et al.*⁶

In the *Initiation Notice*, Commerce notified parties of an opportunity to comment on the scope of the investigation, as well as on the appropriate physical characteristics of aluminum sheet to be reported in response to Commerce's AD questionnaire.⁷ On April 27, 2020, we received timely-filed product characteristic comments from interested parties. On May 11, 2020, we received timely-filed rebuttal product characteristics comments from interested parties. On May 18, 2020, Commerce officials spoke via telephone with counsel for the petitioners regarding the petitioners' product characteristics comments and rebuttal comments.⁸ On May 19, 2020, Commerce determined the product characteristics applicable to this investigation.⁹

From May 4 through May 6, 2020, we received timely-filed comments concerning the scope of the investigation from interested parties. On May 21, 2020, we received timely-filed rebuttal scope comments from interested parties. On May 27, 2020, Commerce officials spoke with

³ *Id.* at 85 FR at 19448. The *Initiation Notice* also notes that the Petition named only one potential respondent in South Africa. *Id.*, 85 FR at 19447.

⁴ See Petition, Volume XVI at 1; and *Initiation Notice*, 85 FR at 19447-19448.

⁵ See Commerce's Letter, "Antidumping Duty Investigation, Request for Information, Hulamin Operations (Pty) Ltd.," dated April 14, 2020 (Initial Questionnaire).

⁶ See *Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey*, Investigation Nos. 701-TA-639-642 and 731-TA-1475-1492 (Preliminary), 85 FR 23842 (April 29, 2020).

⁷ See *Initiation Notice*, 85 FR at 19445. Commerce subsequently extended the deadlines for comments and rebuttal comments on the scope and product characteristics.

⁸ See Memorandum, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Phone Call with Outside Counsel," dated May 19, 2020.

⁹ See Commerce's Letter, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Product Characteristics," dated May 19, 2020 (Product Characteristics Letter).

counsel for the petitioners *via* telephone regarding the petitioners' scope comments and rebuttal comments.¹⁰ We issued the Preliminary Scope Decision Memorandum on October 6, 2020.¹¹

On June 4, 2020, Commerce issued revised descriptions for certain product characteristics.¹² On June 11, 2020, the petitioners submitted comments in response to requests from respondents in a number of aluminum sheet investigations to rescind the revisions made in Commerce's Revised Product Characteristics Memorandum.¹³ On June 12, 2020, Commerce officials spoke *via* telephone with counsel for the petitioners, and counsel for respondents in a number of aluminum sheet investigations regarding Commerce's Revised Product Characteristics Memorandum.¹⁴ On June 16, 2020, we issued the final product characteristics in this investigation.¹⁵

Hulamin Operations provided responses to our Initial Questionnaire from May 19, 2020 to June 30, 2020.¹⁶ We issued supplemental questionnaires and received timely responses to these supplemental questionnaires from July 7, 2020 through September 15, 2020.¹⁷

On July 29, 2020, Commerce postponed the preliminary determination of this investigation by 50 days, to October 6, 2020, pursuant to section 733(c)(1)(A) of the Act and 19 CFR 351.205(e).¹⁸

¹⁰ See Memorandum, "Common Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Deadline for Scope Comments: *Ex Parte* Telephone Call with Counsel for the Aluminum Association Trade Enforcement Working Group," dated May 29, 2020.

¹¹ See Memorandum, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Scope Comments Decision Memorandum for the Preliminary Determinations," dated October 6, 2020 (Preliminary Scope Decision Memorandum).

¹² See Memorandum, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Product Characteristics Correction," dated June 4, 2020 (Revised Product Characteristics Memorandum).

¹³ See Petitioner's Letter, "Antidumping Investigations Concerning Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Petitioners' Response to Respondents' Requests to Rescind Product Characteristics Clarification and for Extensions of Time to Submit Section B-D Questionnaire Responses," dated June 11, 2020.

¹⁴ See Memorandum, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Meeting with Outside Counsel," dated June 16, 2020.

¹⁵ See Memorandum, "Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: Revised Product Characteristics Guidance," dated June 16, 2020.

¹⁶ See Hulamin Operations' May 19, 2020 Section A Questionnaire Response (Hulamin Operations' AQR); and Hulamin Operations' June 30, 2020 B, C, and D Questionnaire Responses (Hulamin Operations' BQR, CQR and DQR).

¹⁷ See Hulamin Operations' July 7, 2020 Supplemental Section A Response (Hulamin Operations' SAQR); Hulamin Operations' August 17, 2020 Supplemental Section D Response; Hulamin Operations' August 28, 2020 Supplemental B, C, and D Responses (Hulamin Operations' SBQR, SCQR and 2nd SQR (BCD)); Hulamin Operations' September 4, 2020 Supplemental Section A Response; and Hulamin Operations' September 15, 2020 Supplemental Section D Response.

¹⁸ See *Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and the Republic of Turkey: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 85 FR 45576

On September 9, 2020, Hualamin Operations requested that, in the event of an affirmative preliminary determination in this investigation, Commerce postpone its final determination in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month to a six-month period.¹⁹

On September 15, 2020, and September 18, 2020, the petitioners submitted comments with respect to Hualamin Operations for consideration in the preliminary determination.²⁰ On September 18, 2020, Commerce officials spoke via telephone with counsel for the petitioners regarding issues relating to the ongoing investigations, including cost-reporting deficiencies and the potential application of adverse facts available in upcoming preliminary determinations.²¹

On September 24, 2020, Hualamin Operations provided finalized copies of the audited financial statements for Hualamin Operations and its affiliated party, Isizinda Aluminium (Pty) Ltd (Isizinda).²²

On September 24 and 25, 2020, Hualamin Operations submitted rebuttal comments in response to the Petitioners' Pre-Preliminary Comments.²³

III. PERIOD OF INVESTIGATION

The POI is January 1, 2019 through December 31, 2019. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the Petition, which was March 2020.²⁴

(July 29, 2020); and Petitioners' Letter, "Common Alloy Aluminum Sheet From Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Republic of Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan and the Republic of Turkey: Petitioners' Request for Postponement of Preliminary Antidumping Determinations," dated July 16, 2020.

¹⁹ See Hualamin Operations' Letter, "Common Alloy Aluminum Sheet from South Africa: Request to Postpone Final Determination and to Extend Provisional Measures," dated September 9, 2020.

²⁰ See Petitioners' Letters, "Common Alloy Aluminum Sheet from South Africa: Petitioners' Pre-Preliminary Comments," dated September 15, 2020; and "Common Alloy Aluminum Sheet from South Africa: Petitioners' Supplemental Pre-Preliminary Comments Addressing Cost-Related Issues and Hualamin's Recently-Submitted Supplemental Cost Questionnaire, dated September 18, 2020 (Petitioners' Pre-Preliminary Comments).

²¹ See Memorandum, "Antidumping Duty Investigations of Common Alloy Aluminum Sheet from Bahrain, Brazil, Croatia, Egypt, Germany, Greece, India, Indonesia, Italy, Korea, Oman, Romania, Serbia, Slovenia, South Africa, Spain, Taiwan, and Turkey: *Ex Parte* Telephone Call with Counsel for the Petitioners," dated September 23, 2020.

²² See Hualamin Operations' Letter, "Common Alloy Aluminum Sheet from South Africa: Hualamin Operations Proprietary Limited: Submission of Audited Financial Statements," dated September 24, 2020; and Hualamin Operations' AQR at Exhibit A-19, "Audited Financial Statements" for the 2017 and 2018 audited financial statements for Hualamin Operations and Isizinda.

²³ See Hualamin Operations' Letters, "Common Alloy Aluminum Sheet from South Africa: Response to Petitioner's Pre-Preliminary Comments," dated September 24, 2020; and "Common Alloy Aluminum Sheet from South Africa: Response to Petitioner's Supplemental Pre-Preliminary Comments," dated September 25, 2020.

²⁴ See 19 CFR 351.204(b)(1).

IV. SCOPE OF INVESTIGATION

The products covered by this investigation are common alloy aluminum sheet from South Africa. For a full description of the scope of the investigation, *see* the accompanying preliminary determination *Federal Register* notice at Appendix I.

V. SCOPE COMMENTS

In accordance with the *Preamble* to Commerce's regulations,²⁵ in the *Initiation Notice* Commerce set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).²⁶ As noted above, certain interested parties commented on the scope of this investigation, as published in the *Initiation Notice*. For a summary of the product coverage comments and rebuttals and our accompanying analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.

VI. DISCUSSION OF THE METHODOLOGY

A. Comparisons to Normal Value

To determine whether sales of aluminum sheet from South Africa to the United States were made at LFTV, we compared the export prices (EPs) and/or constructed export prices (CEPs) to the NV, as described in the "U.S. Price" and "Normal Value" sections of this memorandum, below.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), Commerce calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs or CEPs, *i.e.*, the average-to-average method, unless the Secretary determines that another method is appropriate in a particular situation. In LTFV investigations, Commerce examines whether to compare weighted-average NVs with the EPs or CEPs of individual sales, *i.e.*, the average-to-transaction method, as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act.

In numerous investigations, Commerce has applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.²⁷ Commerce finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this investigation. Commerce will continue to develop its approach in this area based on comments

²⁵ *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

²⁶ *See Initiation Notice*, 85 FR at 19444.

²⁷ *See, e.g., Xanthan Gum from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 33351 (June 4, 2013); *Steel Concrete Reinforcing Bar from Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances*, 79 FR 54967 (September 15, 2014); and *Welded Line Pipe from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015).

received in this and other proceedings, and on Commerce's additional experience with addressing the potential masking of dumping that can occur when Commerce uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in this preliminary determination examines whether there exists a pattern of EPs or CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported consolidated customer codes. Regions are defined using the reported destination code, *i.e.*, zip code, and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that Commerce uses in making comparisons between EP or CEP and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean, *i.e.*, weighted-average price, of a test group and the mean, *i.e.*, weighted-average price, of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region, or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region, or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large, *i.e.*, 0.8, threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the

Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage, *i.e.*, the Cohen's *d* test and the ratio test, demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, Commerce examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, Commerce tests whether using an alternative comparison method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if: (1) there is a 25 percent relative change in the weighted-average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the *de minimis* threshold; or (2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.²⁸

2. Results of the Differential Pricing Analysis

For Hulamin Operations, based on the results of the differential pricing analysis, Commerce preliminarily finds that 62.29 percent of the value of U.S. sales pass the Cohen's *d* test,²⁹ and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, we preliminarily determine that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test.³⁰ Thus, for this preliminary determination, we are applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Hulamin Operations.

²⁸ The Court of Appeals for the Federal Circuit (CAFC) in *Apex Frozen Foods v. United States*, 16-1789 (Fed. Cir. July 12, 2017) affirmed much of Commerce's differential pricing methodology. We ask interested parties to present only arguments on issues which have not already been decided by the CAFC.

²⁹ See Memorandum, "Antidumping Duty Investigation of Common Alloy Aluminum Sheet from South Africa: Analysis of the Preliminary Determination Margin Calculations for Hulamin Operations (Pty) Ltd.," dated concurrently with this memorandum (Preliminary Analysis Memorandum) at 2 and 3.

³⁰ *Id.*

B. Product Comparisons

As stated above, Commerce gave parties an opportunity to comment on the appropriate hierarchy of physical characteristics used to define each product, including for model matching purposes, within a certain deadline.³¹ We considered the comments that were submitted and established the appropriate product characteristics to use as a basis for defining the product control numbers of aluminum sheet in this AD investigation. Commerce identified nine criteria for the physical characteristics of the subject merchandise: (1) alloy; (2) clad *versus* non-clad; (3) casting method; (4) non-mechanical surface treatment; (5) coil; (6) nominal width; (7) gauge (nominal thickness); (8) mechanical surface finish; and (9) temper.³² We instructed Hulamin Operations to use these product characteristics in its response to the AD questionnaire issued in this investigation.³³

In accordance with section 771(16) of the Act, we considered all products produced and sold by Hulamin Operations in South Africa during the POI that fit the description in the “Scope of Investigation” section of the accompanying *Federal Register* notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise sold in the home market in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign-like product made in the ordinary course of trade.

C. Date of Sale

Section 351.401(i) of Commerce’s regulations states that, in identifying the date of sale of the subject merchandise or foreign like product, Commerce normally will use the date of invoice, as recorded in the exporter or producer’s records kept in the ordinary course of business. Additionally, Commerce may use a date other than the date of invoice if it is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.³⁴ Finally, Commerce has a long-standing practice of finding that, where the shipment date precedes the invoice date, the shipment date better reflects the date on which the material terms of sale are established.³⁵ Although Hulamin Operations originally reported commercial invoice date as the date of sale for its home market and U.S. sales,³⁶ it revised its response to report the date of sale as the earlier of its shipment date or invoice date.³⁷ Consistent with 19 CFR 351.401(i) and our practice, we based the date of sale on the earlier of invoice or shipment date.

³¹ See *Initiation Notice*, 85 FR at 19445.

³² See Commerce’s Revised Product Characteristics Memorandum.

³³ *Id.*

³⁴ See 19 CFR 351.401(i); and *Allied Tube & Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)).

³⁵ See, e.g., *Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2007/2008 Antidumping Duty Administrative Review*, 74 FR 27281, 27283 (June 9, 2009), unchanged in *Certain Polyester Staple Fiber from the Republic of Korea: Final Results of the 2007-2008 Antidumping Duty Administrative Review*, 74 FR 65517 (December 10, 2009).

³⁶ See Hulamin Operations’ BQR at 22; and Hulamin Operations’ CQR at 20.

³⁷ See Hulamin Operations’ SBQR at 3; and Hulamin Operations’ SCQR at 2.

D. Export Price

Section 772(a) of the Act defines EP as “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States,” as adjusted under subsection 772(c) of the Act. In accordance with section 772(a) of the Act, we calculated EP for all Hualamin Operations’ U.S. sales where the subject merchandise was first sold to an unaffiliated purchaser in the United States prior to importation and the CEP methodology was not otherwise warranted based on the facts of the record.

We calculated EP based on the packed prices that Hualamin Operations charged to the first unaffiliated purchaser in the United States. Where appropriate, we adjusted the starting prices for billing adjustments and early payment discounts in accordance with 19 CFR 351.401(c). We made deductions, where appropriate, from the starting price for movement expenses, *i.e.*, foreign inland freight from the plant to the distribution warehouse, foreign warehousing expenses, foreign inland freight from the distribution warehouse to the port, inland insurance, foreign brokerage and handling, U.S. brokerage and handling, international freight, and U.S. inland freight from port to warehouse, in accordance with section 772(c)(2)(A) of the Act.

E. Constructed Export Price

Pursuant to section 772(b) of the Act, the CEP is “the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter,” as adjusted under sections 772(c) and (d) of the Act. In accordance with section 772(b) of the Act, we used CEP for certain of Hualamin Operations’ sales because the sales were made on its behalf by its U.S. sales affiliate in the United States (*i.e.*, Hualamin North America LLC (Hualamin North America)) to unaffiliated purchasers in the United States.

For these sales, we calculated CEP based on delivered prices to unaffiliated purchasers in the United States. We made adjustments from the starting price, where appropriate, for rebates in accordance with 19 CFR 351.401(c).³⁸ We made additions to the starting price for packing in accordance with section 772(c)(1)(A) of the Act. We made deductions from the U.S. sales price for movement expenses in accordance with section 772(c)(2) of the Act. These adjustments included, where applicable, foreign inland freight from the plant to the distribution warehouse, foreign warehousing expenses, foreign inland freight from the distribution warehouse to the port, inland insurance, foreign brokerage and handling, U.S. brokerage and handling, international freight, U.S. inland freight from port to warehouse, U.S. warehousing, U.S. duties and U.S. inland freight from warehouse to the customer.

³⁸ See Hualamin Operations’ CQR at 26-27.

F. Normal Value

1. Comparison Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, *i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales, we normally compare the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with sections 773(a)(1)(A) and (B) of the Act. If we determine that no viable home market exists, we may, if appropriate, use a respondent's sales of the foreign like product to a third-country market as the basis for comparison market sales, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

In this investigation, we preliminarily determined that the aggregate volume of home market sales of the foreign like product for Hualamin Operations was more than five percent of the aggregate volume of its U.S. sales of the subject merchandise. Based on our analysis of information on the record, we preliminarily determine that Hualamin Operations' home market of South Africa is viable. Therefore, we used home market sales in South Africa as the basis for NV for Hualamin Operations in accordance with section 773(a)(1)(A) and (B) of the Act.

2. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, Commerce will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).³⁹ Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.⁴⁰ In order to determine whether the comparison market sales are at different stages in the marketing process than the U.S. sales, we examine the distribution system in each market, *i.e.*, the chain of distribution, including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales, *i.e.*, NV based on either home market or third country prices,⁴¹ we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.⁴²

When Commerce is unable to match sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, Commerce may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales to sales at a different LOT in the

³⁹ See 19 CFR 351.412(c)(2).

⁴⁰ *Id.*; and *Certain Orange Juice from Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part*, 75 FR 50999 (August 18, 2010) (*OJ from Brazil*), and accompanying Issues and Decision Memorandum (IDM) at Comment 7.

⁴¹ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

⁴² See *Micron Tech., Inc. v. United States*, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability, *i.e.*, no LOT adjustment is possible, Commerce will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.⁴³

In this investigation, we obtained information from Hulamin Operations regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed for each channel of distribution.⁴⁴ Our LOT findings are summarized below.

Hulamin Operations reported that it made all home market sales through a single channel of distribution in the home market: sales to an unaffiliated distributor (Channel 1).⁴⁵ Selling activities can be generally grouped into five selling function categories for analysis, specifically, provision of: (1) sales support; (2) training services; (3) technical support; (4) logistical services; and (5) performance of sales-related administrative activities. Based on Hulamin Operations' selling functions chart, we find that Hulamin Operations performed sales support, training services, technical support, logistical services, and sales-related administrative activities for all home market sales. Because Hulamin Operations had only one channel of distribution in the home market, we preliminarily determine that there is one LOT in the home market for Hulamin Operations.

Hulamin reported that it made EP and CEP sales in the U.S. market through two channels of distribution.⁴⁶ Hulamin Operations reported that its U.S. sales team made CEP sales to unaffiliated U.S. distributors and original equipment manufacturers (OEMs) (Channel 1).⁴⁷ These sales were shipped from South Africa to the U.S. warehouse upon order confirmation.⁴⁸ At the time of sale to the customer, Hulamin arranges for shipment from the U.S. warehouse to the customer location.⁴⁹ Hulamin Operations reported that it made EP sales to U.S. distributors and OEMs shipped directly from South Africa to the U.S. customer (Channel 2).⁵⁰

Hulamin Operations reported that it performed the following selling functions in the United States for U.S. sales: order solicitation and the negotiation of sales terms within the framework of the agreement in place with the customer; the acceptance and recording of purchase orders from customers; the submission of the order to the planning department for a confirmation dated; and the generation of an order confirmation which is sent to the customer as proof of order acceptance.⁵¹ Upon completion of the order, Hulamin Operations loads the finished goods onto

⁴³ See, *e.g.*, *OJ from Brazil* IDM at Comment 7.

⁴⁴ See Hulamin Operations' AQR at A-23 to A-24.

⁴⁵ *Id.*

⁴⁶ *Id.*; and Hulamin Operations' AQR at A-25 to A-26.

⁴⁷ See Hulamin Operations' AQR at A-25 to A-26; and Hulamin Operations' SAQR at Exhibit SA-1A, "Revised Section A Narrative Pages," at A-25 to A-26.

⁴⁸ See Hulamin Operations' AQR A-25; and Hulamin Operations' SAQR at Exhibit SA-1A, "Revised Section A Narrative Pages," at A-25.

⁴⁹ See Hulamin Operations' SAQR at Exhibit SA-1A, "Revised Section A Narrative Pages," at A-25.

⁵⁰ *Id.* at A-26.

⁵¹ *Id.*

trucks and transports them to the freight forwarder where they are packed into containers, and transported to the port in South Africa; loaded into ships, and transported to the U.S.⁵² Hulamin Operations arranges transport from the U.S. port of importation to the U.S. warehouse at which time containers are unpacked.⁵³ At the time of sale to the customer, Hulamin arranges for shipment from the U.S. warehouse to the customer location.⁵⁴ Hulamin Operations issues the invoice once the goods are delivered to the customer, when ownership transfers from Hulamin Operations to the customer.⁵⁵ Hulamin Operations explained that the same sales process applies to its EP sales (Channel 2), except that it ships the material directly from South Africa to the U.S. customer, and issues the customer invoice when it completes the bill of lading.⁵⁶ Hulamin Operations reported that it provided sales support services, technical support, logistical support, and sales related administrative activity at a much higher level of intensity for CEP sales than for EP sales.⁵⁷ However, because Hulamin Operations reported offering sales support, training services, technical support, logistical services, and sales-related administrative activities for CEP and EP sales during the POI, we determine that Hulamin Operations' sales to the U.S. market during the POI were made at one LOT.

Finally, we compared the U.S. LOT to the home market LOT, and found that the selling functions Hulamin Operations performed for its U.S. and home market customers are identical.⁵⁸ Specifically, Hulamin Operations performed the same selling functions in the home market, which are grouped in one LOT, as it performed in the U.S. market, which are also grouped in one LOT.⁵⁹ Therefore, we preliminarily determine that sales to the United States and home market during the POI were made at the same LOT and, as a result, no LOT adjustment is warranted.

3. Cost of Production Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act, Commerce requested cost of production (COP) information from Hulamin Operations. We examined Hulamin Operations' cost data and determined that our quarterly cost methodology is not warranted, and therefore, we are applying our standard methodology of using annual average costs based on Hulamin Operations' reported data.

a. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A) and interest expenses. We relied on the COP data submitted by Hulamin Operations, except as follows.⁶⁰

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.* at A-25 to A-26; and Hulamin Operations' AQR at Exhibit A-8.

⁵⁸ See Hulamin Operations' AQR at A-25 to A-26 and Exhibit A-8; and, Hulamin Operations' SAQR at Exhibit SA-1A, "Revised Section A Narrative Pages," at A-25 to A-26.

⁵⁹ *Id.*

⁶⁰ See Memorandum, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Hulamin," dated concurrently with this memorandum.

- We relied on Hulamin Operations' alternative cost data file where the direct material costs are smoothed over the POI.
- We revised the numerator of Hulamin Operations' G&A expense rate to include impairment losses.

b. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(b) of the Act, we compared the weighted-average COPs to the home market sales prices of the foreign like product, in order to determine whether the sales prices were below the COPs. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The prices were exclusive of any applicable billing adjustments, discounts and rebates, where applicable, movement charges, actual direct and indirect selling expenses, and packing expenses.

c. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: (1) within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of the respondent's comparison market sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: (1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on our comparison of prices to the weighted-average COPs for the POI, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that, for certain products, more than 20 percent of Hulamin Operations' home market sales during the POI were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

G. Calculation of NV Based on Comparison-Market Prices

We calculated NV for Hulamin Operations based on prices to unaffiliated customers. In accordance with 19 CFR 351.401(c), we adjusted the starting prices for billing adjustments, early payment discounts, other discounts and rebates, where appropriate. We made deductions for movement expenses in accordance with section 773(a)(6)(B)(ii) of the Act, which included, where appropriate, foreign inland freight and insurance. We made adjustments for differences in circumstances of sale pursuant to section 773(a)(6)(C)(iii) of the Act by deducting home market

direct selling expenses (*i.e.*, warranty expenses and imputed credit expenses) and adding U.S. direct selling expenses (*i.e.*, warranty expenses, bank charges and imputed credit expenses), where appropriate.⁶¹

When comparing U.S. sales with home market sales of similar merchandise, we also made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.⁶² We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

VII. CURRENCY CONVERSION

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415(a), based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

VIII. RECOMMENDATION

We recommend applying the above methodology for this preliminary determination.

☒

Agree

☐

Disagree

10/6/2020

X 

Signed by: JEFFREY KESSLER

Jeffrey I. Kessler
Assistant Secretary
for Enforcement and Compliance

⁶¹ Hualamin Operations did not offer commissions on sales of subject merchandise in either the U.S. or home markets. *See, e.g.*, Hualamin Operations' BQR at 35; and Hualamin Operations' CQR at 41.

⁶² *See Stainless Steel Bar from France: Final Results of Antidumping Duty Administrative Review*, 70 FR 46482 (August 10, 2005), and accompanying IDM at Comment 8.